

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1625 OF 2015

The General Secretary,
Bhartiya Kamgar Sena,
Prafulban Society, RK Vidya Road,
Dadar, Mumbai 400 028

..Petitioner

Versus

The Management,
M/s Sanjeev Auto Parts
Manufacturers Pvt. Ltd.,
Plot No.K-96, MIDC, Waluj,
Aurangabad.

..Respondent

WITH
WRIT PETITION NO.1627 OF 2015

The General Secretary,
Bhartiya Kamgar Sena,
Prafulban Society, RK Vidya Road,
Dadar, Mumbai 400 028

..Petitioner

Versus

The Management,
M/s Sanjeev Auto Parts
Manufacturers Pvt. Ltd.,
Plot No.K-96, MIDC, Waluj,
Aurangabad.

..Respondent

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Advocate for Petitioner : Shri Thole Yatin I.
Advocate for Respondent : Shri Kaware B.R.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: August 19, 2015

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ORAL JUDGMENT :-

1. The learned Advocates for the respective sides have no objection if this Court decides these matters.

2. Rule.

3. By consent, Rule is made returnable forthwith and the petitions are taken up for final disposal.

4. The petitioner is a Union, which has challenged the two impugned orders dated 5.8.2014, in Reference (IT) Nos.4 of 2013 and 2 of 2013 respectively.

5. Since a common issue is involved in these two matters and the litigating sides are the same Union and the same management, I have taken up both these petitions for hearing together.

6. Reference (IT) Nos. 4 of 2013 and 2 of 2013 are with reference to wage rise demands and connected issues. The petitioner Union has raised several demands so as to arrive at long term benefits settlement with the respondent / management. An application Exhibit U/4 and U/6 respectively were filed by the petitioners in these two reference cases before the Industrial Tribunal seeking an interim rise in wages. By the impugned orders dated 5.8.2014, both these applications have been rejected by the Tribunal.

7. In the course of hearing in these matters, Shri Kaware learned Advocate for the respondent / management submits that the notification issued under the Minimum Wages Act prescribing the minimum rates of

wages, which are inclusive of basic wages, special allowance and 5% H.R.A., are applicable to the respondent engineering establishment. He submits that the respondent has no intention of violating the law and overlooking the notification. The respondent has always paid wages more than the minimum wages prescribed by law and will continue to do so till the reference proceedings are decided.

8. Shri Thole, learned Advocate for the petitioner / Union submits that the reference proceedings are pending since 2013, which were preceded by an attempt to settle the matter amicably under the Industrial Disputes Act, 1947. Since the conciliation proceedings failed, the reference has been ordered by the appropriate Government. It is practically more than two years that the recording of evidence is yet to commence for want of Written Statement. The respondent / management has filed its written statement recently. He, therefore, submits that the interest of the employees at issue needs to be safeguarded so as to ensure that they are not exploited and are not tired out during the pendency of the reference proceedings.

9. Shri Kaware submits that in the event it is noticed that there is any short fall in the payment of minimum wages, the respondents shall not hesitate to comply with the legal provisions since it does not intend to violate any of the notifications issued under the Minimum Wages Act.

10. While considering the submissions of the learned Advocates, I have

taken into account the fact that the application for interim relief has been rejected by the Tribunal vide its order dated 5.8.2014 in both these cases. More than a year has passed away, pursuant to the impugned orders. Ends of justice would be met by directing the Tribunal to decide the reference proceedings within a period of six months since more than two years have lapsed ever since the reference has been registered by the Industrial Tribunal.

11. Shri Kaware has clarified that in the second petition, since the number of employees engaged by the respondent / factory are less than 50, the Maharashtra Workmens' Minimum House Rent Allowance Act is not applicable. Shri Thole refutes the said contention and submits that this would be a matter of evidence before the Tribunal and the petitioners would establish that the workers are 50 or more in the said factory.

12. Both the learned Advocates submit that they would extend their cooperation to the Industrial Tribunal for the expeditious disposal of both the case and would refrain from seeking adjournments on trivial grounds.

13. In the light of the above, I pass the following order:-

(A) The respondent shall continue to pay the minimum rates of wages as per prescribed rates from time to time to all the employees.

(B) In the event there is any short fall in such payment, the respondent shall deposit the said amounts before the Tribunal, so as

to be paid to such employees in whose cases, there is a short fall.

(C) The petitioner is at liberty to file an application for indicating to the Industrial Tribunal instances of any short fall in Minimum wages and the Industrial Tribunal shall expeditiously decide such application.

(D) In the event the respondent is paying higher wages to the employees in comparison to the minimum rates prescribed, the respondent shall continue to do so during the pendency of the reference proceedings.

(E) All contentions of the litigating sides are kept open.

(F) The Industrial Tribunal shall decide these reference cases on/or before 29.2.2016.

14. Both these petitions are, therefore, disposed off with the above directions. Rule stands discharged. No order as to costs.

(RAVINDRA V. GHUGE, J.)

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